

Department of Permits and Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204
Baltimore County, Maryland

In the Matter of

Civil Citation No. 22556

Joseph Openden
Yona Openden

3402 Shelburne Road

Respondents

FINDINGS OF FACT AND CONCLUSIONS OF LAW
FINAL ORDER OF THE CODE ENFORCEMENT HEARING OFFICER

This matter came before the Code Enforcement Hearing Officer for the Department of Permits and Development Management on March 4, 2009, for a hearing on a citation for violations under the Baltimore County Zoning Regulations (BCZR) section 102.1, 415.2A 3C, failure to remove commercial trailers, section 102.1; 1B01.1; 307, failure to cease House of Worship without change of occupancy on residential property zoned DR 5.5 known as 3402 Shelburne Road, 21208.

On May 5, 2008, pursuant to §3-6-205, Baltimore County Code, Code Enforcement Officer, issued a code enforcement citation. The citation was sent to the Respondent by 1st class mail to the last known address listed in the Maryland State Tax Assessment files. The citation proposed a civil penalty of \$13,200.00 (thirteen thousand two hundred dollars). Respondents failed to appear for the Code Enforcement Hearing on May 13, 2008. A Final Order was issued by Hearing Officer Wisnom, imposing the full civil penalty and further ordering that Baltimore County enter the property for purpose of removing the commercial trailers at the expense of the property owner.

In March 2009, Respondents through their attorney contacted the Department to request reconsideration of the Final Order. The request was granted and this Hearing was held on March 4, 2009.

The following persons appeared for the Hearing and testified: the Respondents, Joseph & Yona Openden, Wayne Goddard, Esq., and Ron Turner, Baltimore County Code Enforcement Officer.

After proper consideration of all the testimony and evidence presented, the Hearing Officer finds:

A. In January 2008, the County received a complaint that large commercial trailers had been placed in the rear yard of this residential property and that worship services were being held in the trailers. A Correction Notice was issued January 4, 2008. The tenants requested additional time to remove the trailers because the ground was too soft for heavy equipment. Another Correction Notice was issued April 3, 2008. A Citation was issued May 5, 2008 for zoning violations.

B. Respondents testified that they did not actually receive the Correction or Citation notices. The Opendens purchased the property intending to make it their primary residence, and obtained architect plans for an addition. Because the project was too expensive, they decided to sell the property and purchase a larger house. They entered into a contract of sale in 2007 and allowed the purchasers to move into the house as pre-settlement tenants. The Opendens did not grant the tenants permission to bring in the trailers and did not know about the violation notices. The property is on the city/county line. The Opendens notified the City that the property was no longer owner-occupied, and received City tax bills at their new address, but failed to notify Baltimore County.

C. The sale of the property was not completed. The Opendens evicted the tenants in June 2008. The trailers have been removed and the property is in compliance with county codes. The Opendens and their children now live in the property. Respondents request abatement of the civil penalty due to their lack of actual knowledge about the violations and due to financial hardship.

D. As owners of the property, Respondents were responsible for compliance with County zoning requirements, and were responsible for updating their address in the tax files so they would receive official notices. However, Respondents initially believed the sale would be completed in September 2007, they did not cause or authorize bringing the trailers onto the property, and they incurred costs to evict the tenants who had created the violations.

IT IS ORDERED by the Code Enforcement Hearing Officer that the civil penalty previously imposed is RESCINDED.

IT IS FURHTER ORDERED that the \$13,200.00 (thirteen thousand two hundred dollars) civil penalty previously imposed by Final Order dated May 13, 2008 is RESCINDED, and the associated lien shall be removed from the property.

ORDERED this 16th day of March 2009.

Signed: ORIGINAL SIGNED
Margaret Z. Ferguson
Baltimore County Hearing Officer

NOTICE TO VIOLATOR: The violator is advised that (1) pursuant to §3-6-206(g)(2) of the Baltimore County Code, the Violator may make written application to the Director of the Department of Permits & Development Management within 10 days to modify or amend this order and (2) pursuant to §3-6-301(a), Baltimore County Code, the Violator may appeal this order to the Baltimore County Board of Appeals within fifteen (15) days from the date of this order. Any such appeal requires the filing of a petition setting forth the grounds for appeal, payment of a filing fee of \$150 and the posting of security to satisfy the penalty assessed.